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THE MONROE DOCTRINE.

WHENCE IT CAME, WHAT IT IS, AND WHAT IT IS NOT.

BY HON. WILLIAM L. SCRUGGS.

In December, 1823, when President Monroe promulgated the American doctrine of non-intervention which bears his name, we were yet an infant nation. Indeed, we were then scarcely a nation at all. True, we were about forty-seven years old, dating our birth from the Declaration of Independence; and if we concede the contention of the mother country, and date our birth from the Treaty of Peace of 1782, we were nearly forty. In either case, we had been assigned a quiet corner in the great international household, and, like most junior members of a family, had succeeded in making our presence known. But, as our federal Constitution was then interpreted, even by Mr. Monroe himself, we were not, strictly speaking, a nation. A nation, in the strict legal sense of that term, cannot be said to exist without citizens or subjects—individual persons, who owe it paramount allegiance—and at that time the United States had neither citizens nor subjects. For, according to the then prevalent theory of our Constitution, a person could be a citizen of the United States only as he was such incidentally by reason of his being a citizen of some one of the constituent commonwealths or "states" of the federal Union. The necessary conclusion from such a premise was that his paramount allegiance was due to the State and not to the federal Government. In other words, to adopt the language of that school of politics whereof Mr. Monroe was understood to be an adherent, we were but a league or confederation of "sovereign and independent States."

There were, indeed, in our political and judicial nomenclature, such phrases as "American citizen" and "citizen of the United States," but they had no very definite meaning. They might mean almost anything or nothing, accordingly as they were construed or interpreted by federalist or anti-federalist. There was no constitutional definition of the phrase, "citizen of the United States," and our statutes and judicial decisions were searched in vain for some authentic statement of its meaning. It was not till about forty-five years after the Monroe Declaration that we became really a nation in the strict sense of that term. I allude, of course, to the Fourteenth constitutional amendment, which established a citizenship of the United States wholly independent of State lines, and thus, for the first time, made us a Nation in fact as well as in name.

I refer to this anomaly in our constitutional and political history only for the purpose of showing that what we call the "Monroe Doctrine" had attained to full maturity some forty-five years in advance of the maturity of our national sentiment. So far from being its founder, Mr. Monroe was not even the first to proclaim it. From the very beginning of our career as a free people, there had been a settled conviction in the public mind that it would be impolitic and dangerous for us to meddle in European political broils; and the opinion was even more general that it would seriously menace our peace and safety for European nations to obtain any new foothold, or to in any manner extend the sphere of their political influence, on this hemisphere.

But, whilst this sentiment was deep-seated and practically unanimous, it did not find formal official utterance until twenty years after our Declaration of Independence, and a little over twenty-seven before the Monroe Declaration. I allude, of course, to President Washington's farewell address of September, 1796, wherein he recommended "the extension of our commercial relations to European countries," but with the solemn warning to "have as little political connection with them as possible." In so far as we had already formed en-

gagements with them, "our obligations should be fulfilled with perfect good faith;" but there he said we should "stop." The reasons assigned for this were obvious. "European nations have a set of primary interests which have no relation to us as a free people;" "the causes of their frequent quarrels are essentially foreign to our concerns;" we should "hold ourselves aloof," and avoid complicating ourselves "by artificial ties" in the vicissitudes of their politics. "Our detached and distant situation" would "enable us to do this;" our attitude of "strict neutrality" would soon come to be respected; belligerent nations, "realizing the impossibility of making acquisitions upon us," would "not lightly hazard giving us provocation," and we should thus be free to choose peace or war as our own interests, guided by justice, might "direct or counsel."

The Monroe Declaration, made twenty-seven years later, was but the logical outcome of this warning, and, like it, needed but the occasion to bring it forth. It was not, however, the first official reiteration of the principles involved in Washington's warning. In point of fact it was the third in chronological order. Very early in the last century there was an animated controvery between England, Russia, and the United States involving title to what was then known as the "Northwest Territory," comprehending large portions of what are now Oregon and Alaska. During that controversy the fact was disclosed that both England and Russia considered certain alleged "unoccupied" portions of both North and South America as *res nullius*, or "vacant lands," and therefore open to European colonization. This raised an issue of law and fact which was promptly met by the Monroe administration. John Quincy Adams, then Secretary of State, under date of July 2, 1823, (just five months prior to the date of Mr. Monroe's famous message), addressed an official letter to Benjamin Rush, our Minister at London, wherein, speaking of the Latin-American republics, he said:

"Those independent nations will possess all the rights incident to that condition, and their territories will, of course, be subject to no exclusive right of navigation in their vicinity, or

access to them by any foreign nation. A necessary consequence of this will be that the American continents henceforth will no longer be subject to colonization. Occupied by civilized nations, they will be accessible to Europeans on that footing alone."[1]

This letter was something more than an ordinary "instruction" to the Minister for his own information and guidance. It was intended as a notice to the British Government, directed through the regular diplomatic channel, that thenceforth the American continents were to be considered closed to European colonization; that there were no more unoccupied or "vacant lands" over which European powers might contend for possession; and Mr. Canning, the British Premier, to whom its contents were made known, so understood it. Fifteen days later, that is to say, on the 17th of the same month, Mr. Adams, presumably by direction of the President, orally repeated the substance of the same statement to the Russian Minister at Washington; and, in the course of the interview, he took occasion to emphasize it by adding that the United States would "contest Russia's right to any new territorial establishment" on this continent, and "would assume distinctly the principle that the American continents were no longer subjects for any new colonial establishments."[2]

It has been said, and repeated often enough to gain some degree of credence, that the first suggestion of the Monroe Doctrine had an European origin. The claim is that the British Premier, Mr. Canning, suggested it to Mr. Rush, during their personal conference in September, 1823, relative to the designs of the so-called "Holy Alliance" upon the newly enfranchised Spanish-American republics.

The absurdity of this claim is too manifest for serious consideration. In the first place, the Canning-Rush conference did not take place until two months *after* the date of Mr. Adams' note to Mr. Rush, nor until a month and a half after

[1] Adams' Diary, VI. 163: Arch. State Dept.: Whart. Dig., Sec. 57.

[2] Ib. Id.

Mr. Adams' oral declarations to the Russian Minister. Hence the impossibility that the suggestion could have come from Mr. Canning at the time and place indicated; and it has never been intimated, much less asserted, that it came from him at any time prior to that. In the second place, we have Mr. Canning's own words in refutation of the claim, which, in the absence of rebutting evidence, ought to be conclusive. In letter addressed to the British Minister at Madrid, dated December 21st, 1823, he uses this language:

"Monarchy in Mexico and Brazil would cure the evils of universal democracy, and prevent the drawing of a demarcation which I most dread, namely, America versus Europe." And further on, in the same letter, speaking of his conference with Mr. Rush, he says: "While I was yet hesitating, in September last, what shape to give the proposed declaration and protest" (against the designs of the Holy Alliance) "I *sounded* Mr. Rush, the American Minister here, as to his powers and disposition to join in any step which we might take to prevent a hostile enterprise by European powers against Spanish-America. He had no powers; but he would have taken upon himself to join us if we would have begun by recognizing the independence of the Spanish-American States. This we could not do, and so we went on without. But I have no doubt that his report to his Government of this *sounding*, which he probably represented as an overture, had something to do in hastening the explicit declaration of the President."[1]

This letter, it will be observed, was written nineteen days after the date of Mr. Monroe's message to Congress; but it related to an event that had transpired three months before, namely, to the Canning-Rush conference of September. There was at that time no steamship nor telegraphic communication between the capitals of the two countries, and it usually took from two to three weeks for mail matter to pass from one to the other. Moreover, the marine mails were infrequent and

[1] Stapleton's Canning and his Times, 395; See also Wharton's Dig., Sec. 57.

irregular. Still, while it is barely possible that a copy of the message may have reached London as early as December 21st (the date of Mr. Canning's letter), the greater probability is that it had not, and that Mr. Canning's allusion to "the explicit declaration of the President" related to the Adams note of July 2, written by direction of the President, and with the contents of which Mr. Canning had been made duly acquainted. This, however, is not material. The point is that Mr. Canning deliberately placed himself on record as opposed to the doctrine enunciated in both the message and the note, and hence could not have inspired either.

Mr. Rush's report of the conference substantially corroborates Mr. Canning's statements, except that what Mr. Canning calls a mere "*sounding,*" Mr. Rush represents as a distinct "proposal." The "proposal" (or the "sounding," whichever we choose to call it), was that England and the United States should publish to the world "a joint declaration" against the designs of the Allied Powers with respect to the Spanish-America; setting forth that while the two governments did not desire any portion of those colonies for themselves, they would not view with indifference "any foreign intervention in the affairs of those colonies, or their attempted acquisition by any third power." And as an inducement, Mr. Canning stated, according to Mr. Rush's report, that there was going to be "a call for a general European Congress for the consideration of the Spanish-American question," but that "England would take no part therein unless the United States should be represented." To which Mr. Rush says he replied that "the traditional policy of the United States was opposed to any participation in the political affairs of Europe;" but that, with respect to the proposed joint declaration, he would, on his own responsibility, "agree to it if England would first acknowledge the independence of the Spanish-American republics," as the United States had already done the year before. This Mr. Canning declined to do, and so there was no "joint declaration." [1]

[1] M. S. Cor. State Dept.

Thus disappears the historical fiction that Mr. Canning "inspired," if he did not originate, the Monroe Doctrine. So far from that, he distinctly disapproved of it, except in so far as it related specifically to the designs of the Holy Alliance. He was ready to take steps to prevent the Allied Powers from interfering on behalf of Spain in her contest with her revolted American colonies; and he was equally anxious to prevent them from partitioning those colonies among themselves. But he was not willing to go the length of recognizing the independence of the new Republics; nor was he willing to concede the main point in Mr. Adams' note, namely, that the American continents were thenceforth to be considered closed to any further European colonization. On the contrary, he held distinctly, as his biographer tells us, that "the United States had no right to take umbrage at the establishment of new colonies from Europe on any unoccupied parts of the American continent." [1]

It is true that when the political sky had been cleared by the bold stand taken by the United States, and when, as a consequence, the "Holy Alliance" had dissolved like a snow bank under the rays of an April sun, England recognized the independence of the Spanish-American colonies and hailed the policy of the United States as "a happy solution of the South American question." [2] This was tantamount to an endorsement of the Monroe Doctrine; but to say that that Doctrine originated with the British Premier, or that he was the moving force behind it, or that he "played an important part in its promulgation," as contended by a late writer,[3] is to ignore history and substitute fiction for fact.

The "Holy Alliance," (or the Allied Powers, as Mr. Canning preferred to call them) was, as every one knows, the celebrated League between, Austria, Russia and Prussia, formed at Paris in September, 1815, soon after the downfall of Napoleon Bonaparte, and which at one time received the moral support of nearly every

[1] Stapleton's Canning, pp. 195–6.

[2] Br. Parl. Papers, Speeches of Lord Brougham and Sir James McIntosh.

[3] In the Washington Post, Feb. 17, 1902.

European power, including both England and France. England, however, had begun to regard it with disfavor, even prior to the Verona Conference of 1822, when its real purpose was first publically disclosed. Its professed object was the "regulation of the relations between Christian countries by the principles of Christian charity;" but its real purpose, as partially disclosed as early as 1821, and as made manifest at the the Verona Conference, was the conservation of existing European dynasties, the reconquest of the Spanish-American States, and the extension of the power and influence of the Allies into the Western hemisphere. As before stated, the United States had already recognized the independence of those Republics; and one of the immediate results of that action was the breaking down of old Spanish trade restrictions in South America and the opening of those countries to the world's commerce. England, ever ready to sieze upon such opportunities for extending her commercial power and influence, had already established a profitable trade there; hence, while for political reasons she had refused to recognize the indepenence of the new Republics, she had for commercial reasons opposed the ultimate design of the Holy Alliance.

It was under these circumstances that President Monroe had practically decided to take some more advanced step than he had hitherto taken diplomatically. He was about to throw down the gauntlet and appeal to Congress and to the moral sense of the world. But he was preeminently a cautious and conservative man, and, before taking this final step, he solicited the written opinions of ex-Presidents Madison and Jefferson in regard to it. Mr. Madison replied that "the circumstances and our relations to the new republics," were "such as to call for our efforts to defeat the meditated crusade." Mr. Jefferson, whose opinions had undergone a healthful change since the collapse of the French Revolution, was even more explicit. "Our first and fundamental maxim" he wrote, "should be never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cis-Atlantic affairs." Then following more closely

the sense, if not the very words of Washington's Farewell Address he added: "America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. She should, therefore, have a system of her own, separate and apart from Europe."

The famous message to Congress, of December 2d, 1823, was the result of this deliberation. After briefly alluding to the Northwest boundary dispute, then in process of settlement, the President therein said:

"The occasion has been judged proper for asserting a principle in which the rights of the United States are involved, (namely), that the American continents, by the free and independent condition they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by European powers.

"In the wars of European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy to do so. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are, of necessity, more immediately concerned, and by causes which must be obvious to all enlightened and impartial observers. The political system of the Allied Powers is essentially different in this respect from that of America. The difference proceeds from that which exists in their respective Governments.

"We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their parts to extend their system to any portion of this hemisphere as dangerous to our peace and safety.

"With existing colonies or dependencies of any European power we have not interferred, and shall not interfere, but with the Governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or

controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States.

"It is impossible that the Allied Powers should extend their political system to any portion of either (America) continent without endangering our peace and happiness; nor can any one believe that our Southern brethren if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference."

Again, one year later, in his annual Message of December 1, 1824, referring to South American affairs, he said:

"Separated as we are from Europe by the great Atlantic Ocean, we can have no concern in the wars of European Governments, nor in the causes which produce them.

"It is the interest of the United States to preserve the most friendly relations with every power and on conditions fair, equal and applicable to all. But in regard to our neighbors, our situation is different. It is impossible for European Governments to interfere in their concerns without affecting us; indeed, the motive which might induce such interference in the present state of war between the parties, (if war it may be called), would appear to be equally applicable to us."

Such, in brief, was the origin of the "Monroe Doctrine." There does not seem to be the least room for controversy either as to its genesis or its meaning. Like the principle of "Free ships, free Goods," now an acknowledged part of modern International law, it had purely an American origin; and its scope and meaning may be condensed in three short sentences, viz:

1. No participation by the United States in the political broils of Europe; no interposition by Europe in the political affairs of the American republics.

2. No more European colonies on the American continents; but those already established not to be interfered with.

3. No extension of European political systems on this hem-

isphere; and no territorial expansion of existing European colonies thereon.

That is essentially all there is of it. It is easily understood; it needs no construction. That it never contemplated interference, in any manner, with vested rights of European nations on these continents is manifest. Nor did it contemplate intervention by the United States to prevent European governments from enforcing any legitimate international obligations against the American republics; for international responsibility is the necessary concomitant of national sovereignty and independence; but, in enforcing such obligations, European powers are prohibited from seizing and permanently holding American territory in satisfaction for debt, or as indemnity for torts. It has never embarrassed European governments in their free and legitimate administration of affairs in their pre-established American colonies; but it has been more than once successfully invoked and applied to prevent any expansion of those colonies. It has steadily kept us aloof from all "entangling alliances," expressed or implied, with European powers in their ambitious schemes of conquest; but it has never embarrassed us in any legitimate effort to extend our commercial relations to any part of the world. In this sense, and in this sense alone, it has always responded to intelligent public sentiment in this country, and has had the unqualified support of all political parties.

It has been said that the Monroe Doctrine, as thus limited and understood, has never received the assent of Europe, nor even the sanction of our own Congress; consequently, that it has no legal validity. It seems to me that such an assumption, so totally unsupported by either fact or law, scarcely need refutation. Even if the facts were as alleged, they would not warrant the conclusion drawn from them. But since the facts are not as alleged, the conclusion is doubly erroneous. As a matter of fact, there has never been a formal protest against the Monroe Doctrine by any European power. On the contrary, all have passively acquiesced in it for nearly a whole century, and passive acquiescense is tantamount to assent. And whilst our na-

tional Legislature has never specifically, and in so many words, reaffirmed it, that body has many times either taken its validity for granted, or has constructively affirmed it. Every resolution or other measure bearing upon it that has ever been introduced into either house of Congress has been unequivocally in support of it; never has there been one against it. That of 1824, by Mr. Clay, was never called up because, under the change of circumstances which soon followed, the measure was deemed superfluous. That of 1864, which passed both houses without a dissenting vote, took the validity of the Monroe Doctrine for granted, and resulted, as everybody knows, in the almost immediate evacuation of Mexico by the French. That of 1879 was never reported from the Committee on Foreign Affairs—possibly because the occasion for it had already passed. That of 1880 was unanimously sustained by the Foreign Affairs Committee, but the session closed before it could be acted upon. That of 1895–6, in relation to the Anglo-Venezuelan question, passed both Houses without a dissenting voice, and led to the settlement of the dispute by arbitration.

The Resolution of 1826, relative to the proposed Panama Congress, constitutes no exception. In the first place, it was not germain to the case at all. Its passage turned upon totally different issues, as is manifest from the very words of the Resolution itself. It merely expressed the opinion that the United States ought not, under the then existing circumstances, to be represented in that particular conference "except in a purely diplomatic character;" that we ought not, at that particular time, to form "any alliance with all or any of the Spanish-American States," but be left free to act, in any crisis that might arise, in "such manner as our feelings of friendship towards our sister Republics and our own honor and traditional policy may at the time dictate." In the next place, viewed at this distance of time, it is easy to see just why that Congress failed. Not the Monroe Doctrine, but negro slavery was the rock on which it was wrecked. One of the questions proposed for discussion by the Congress was "the consideration of means to be adopted for the entire abolition of the African slave

trade." Cuba and Porto Rico, then slave-holding provinces of Spain, were certain to be made subjects of discussion; Hayti, already a negro republic, would be represented; and there were then over four millions of negro slaves in the United States, right of property in which was guaranteed by our fundamental law. Here, then, was an awkward dilemma to be avoided; and in avoiding it, in yielding to the necessity of preserving a class of vested interests in our slave-holding States, we lost the opportunity of giving permanent direction to the political and commercial connections of the newly enfranchised South American republics, and the bulk of their trade passed into other hands. But the principles of the Monroe Doctrine, as above defined, were certainly not, in any manner, abridged or modified thereby.

Again, it has been said that the so-called "Clayton-Bulwer Treaty," of 1850, was a material modification, if not a virtual abandonment, of the principles of the Monroe Doctrine. That that compact was a monumental diplomatic blunder, cannot be denied. Even British statesmen could not conceal their amazement at our short-sightedness in entering into such a one-sided agreement. It certainly kept us on the stool of repentance for nearly half a century. But there were no circumstances connected with its negotiation, nor anything in the treaty itself as ratified by the Senate, to warrant an inference that it contemplated the abandonment, or even a material modification, of the Monroe Doctrine. The primary object was to obtain from Great Britian a solemn pledge never to attempt to colonize any alleged "unoccupied" portions of Central America. The secondary object was to stimulate investment of foreign capital in a great American enterprise at a time when capital for such purposes was difficult to obtain. The blunder consisted in overlooking a covert (and perhaps doubtful) recognition of a British colony already illegally established in Central America. But aside from this, and the incautious "agreement to agree" (in Article VIII.) relative to the control and management of some possible future isthmian canal, the treaty could not be construed as in any way derogatory of the Monroe Doctrine.

Moreover, the treaty itself, as finally proclaimed, was of doubtful legality. It lacked the Senate's concurrence in Mr. Clayton's assent to certain written constructions of it by the British Government, presented for the first time at the exchange of ratifications, and which materially altered its meaning as understood by the slender majority of Senators who had ratified it. It never had much vitality even before our Government denounced it in 1881; it had still less after England abandoned her pretended "protectorate" in Nicaragua, fourteen years later; and now it has happily ceased to have even a nominal existence.

Strangely enough, the intervention by the United States in the Anglo-Venezuelan case, in 1895–6, already alluded to, has been cited as an instance in which we disregarded the principles of the Monroe Doctrine. The contention is that, since the controversy was over a disputed divisional line between a long established and duly recognized European colony and a free American State, our interests were in nowise involved; and that our interposition contrary to the expressed wish of one of the parties to the dispute, even though with the laudable purpose of bringing it to friendly arbitration, was at once a violation of our traditional policy of neutrality and of our pledge not to interfere with European colonies "already established." But this is a total misconception of the facts in the case, as well as of the real principles involved. The important feature of that controversy was England's assertion of right to extend the area of her colony in Guayana over adjacent "unoccupied territory;" for she claimed sovereignty in virtue of alleged "British settlements" made as late as 1881; and she furthermore claimed eminent domain, even beyond those "settlements," in virtue of alleged "treaties made with the native Indian tribes."[1] It is plain that both of these contentions were untenable, as well from a purely juridical standpoint as from the standpoint of the Monroe Declaration. If once admitted with respect to a particular region in South America, they would

[1] Br. Blue Book, 1896, p. 295.

have to apply to others; and if applied to South America in general, they would have to be admitted with respect to North America as well. It was precisely this covert, but ever present feature of the case, which gave it such international importance. Hence, so far from our interposition being a violation of the Monroe Doctrine, it was directly and affirmatively in support of it.

Finally, as every one knows, or is presumed to know, the great body of what we call International law, like that of the English common law, is made up mainly of precedent sanctioned by usage. In its last analysis, it is, as Lord Chief Justice Russell once aptly expressed it, "little more than crystalized public opinion." And I think it has been sufficiently shown that the principles of the Monroe Doctrine are precedents as old as our Government itself. They have been sanctified by unbroken usage, and have given direction to our foreign policy for more than a century. Every one of our Presidents, from the first to the present, who has ever had occasion to refer to it, has reaffirmed it; and every one of the Latin American republics has, at one time or another and in some form or other, affirmatively supported it. It is therefore a valid part of the public International law of this continent; and until abandoned by us, or until formally challenged by Europe, or modified by public treaty, it will continue to be recognized as part of the modern International code of the Christian world.

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